

# HOUSE BILL No. 4951

June 19, 2007, Introduced by Rep. Johnson and referred to the Committee on Judiciary.

A bill to amend 1927 PA 175, entitled  
"The code of criminal procedure,"  
(MCL 760.1 to 777.69) by adding section 13 to chapter X.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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CHAPTER X

SEC. 13. (1) AN INDIVIDUAL CONVICTED OF FIRST DEGREE MURDER IN VIOLATION OF SECTION 316 OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.316, HAS A RIGHT TO APPEAL THAT CONVICTION TO THE COURT OF APPEALS, REGARDLESS OF ANY OTHER APPEAL TAKEN OR NOT TAKEN, IF THE INDIVIDUAL MEETS ALL OF THE FOLLOWING CONDITIONS, AS APPLICABLE:

(A) THE INDIVIDUAL WAS CONVICTED BEFORE NOVEMBER 25, 1980 OF MURDER COMMITTED IN THE PERPETRATION OF, OR ATTEMPT TO PERPETRATE,

1 ARSON, RAPE, CRIMINAL SEXUAL CONDUCT IN THE FIRST OR THIRD DEGREE,  
2 ROBBERY, BURGLARY, BREAKING AND ENTERING OF A DWELLING, LARCENY OF  
3 ANY KIND, EXTORTION, OR KIDNAPPING.

4 (B) THE INDIVIDUAL'S INTENTION TO KILL, INTENTION TO DO GREAT  
5 BODILY HARM, OR WANTON AND WILLFUL DISREGARD OF THE LIKELIHOOD THAT  
6 THE NATURAL TENDENCY OF THE INDIVIDUAL'S BEHAVIOR WAS TO CAUSE  
7 DEATH OR GREAT BODILY HARM WAS NOT SUBMITTED TO THE JURY OR  
8 CONSIDERED BY THE JUDGE SITTING AS TRIER OF FACT.

9 (C) IF THE INDIVIDUAL WAS CONVICTED OF MURDER AS DESCRIBED IN  
10 SUBDIVISION (A) BY AIDING AND ABETTING, THE INDIVIDUAL'S KNOWLEDGE  
11 OF THE PRINCIPAL'S INTENTION TO KILL, INTENTION TO DO GREAT BODILY  
12 HARM, OR WANTON AND WILLFUL DISREGARD OF THE LIKELIHOOD THAT THE  
13 NATURAL TENDENCY OF THE PRINCIPAL'S BEHAVIOR WAS TO CAUSE DEATH OR  
14 GREAT BODILY HARM WAS NOT SUBMITTED TO THE JURY OR CONSIDERED BY  
15 THE JUDGE SITTING AS TRIER OF FACT.

16 (2) IF THE COURT OF APPEALS DETERMINES THAT THE INDIVIDUAL  
17 MEETS ALL APPLICABLE CONDITIONS DESCRIBED IN SUBSECTION (1), THE  
18 COURT SHALL VACATE THE INDIVIDUAL'S FIRST DEGREE MURDER CONVICTION  
19 AND REMAND THE CASE TO THE TRIAL COURT. THE TRIAL COURT SHALL ENTER  
20 A CONVICTION OF SECOND DEGREE MURDER OR OF A LESSER INCLUDED  
21 OFFENSE BASED ON THE TRANSCRIPT AND OTHER EVIDENCE IN THE RECORD,  
22 CONDUCT A SENTENCING HEARING, AND SENTENCE THE INDIVIDUAL ON THAT  
23 CONVICTION. THE SENTENCING SHALL COMPLY WITH ALL CURRENT SENTENCING  
24 STATUTES, COURT RULES, AND CASE LAW.

25 (3) AN INDIVIDUAL SENTENCED UNDER SUBSECTION (2) SHALL RECEIVE  
26 CREDIT FOR TIME SERVED ON THE VACATED FIRST DEGREE MURDER  
27 CONVICTION.

1           (4) THE COURT OF APPEALS SHALL DETERMINE AN APPEAL UNDER THIS  
2 SECTION WITHIN 270 DAYS AFTER THE APPEAL IS FILED.

3           Enacting section 1. Section 13 of chapter X of the code of  
4 criminal procedure, 1927 PA 175, as added by this amendatory act,  
5 applies only to those persons convicted of first degree murder  
6 before the Michigan supreme court's decision in People v Aaron, 409  
7 Mich 672; 299 NW2d 304 (1980).